



STATEMENT BY

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THE ATTORNEY GENERAL

OF THE

THE REPUBLIC OF UGANDA

AT THE

**FIFTEENTH SESSION OF THE ASSEMBLY OF STATES PARTIES TO
THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT**

17TH NOVEMBER 2016

THE HAGUE, THE NETHERLANDS

(Check against delivery)

The President of the Assembly of States Parties His Excellency Sidiki Kaba

Heads of Delegations and Representatives of States Parties

Judges of the International Criminal Court

The Prosecutor of the International Criminal Court

Officers of the International Criminal Court

Distinguished ladies and gentlemen

Mr. President

I thank you for your leadership in steering the business of the Assembly of States Parties and to reassure you of my country's total support and cooperation.

Mr. President

I wish to take this opportunity to reiterate Uganda's commitment to the fight against impunity both within its borders and around the world. As this distinguished Assembly may be aware, my country was the first to make a referral to the International Criminal Court following its coming into existence in 2002. Following the referral, we extended tremendous support to the Court in such a manner that the investigation, which had been projected to take many years, was concluded within less than 18 months and the criminal leadership of the so-called Resistance Army was indicted. Since the surrender of one of the indicted leaders of the Lord's Resistance Army; Mr. Dominic Ongwen, in February 2015, we have continued to cooperate with the Court in order to ensure that the Office of the Prosecutor properly executes its mandate and that Mr. Ongwen gets a fair trial. Both the Prosecutor and the Registrar can attest to my country's extensive cooperation, which although often confidential in nature remains undoubtedly robust. .

Therefore, our role in the growth of the Court as an institution and in the advancement of the cause of justice is not in doubt.

Mr. President

As we informed this distinguished Assembly at the 14th session, Uganda continues to lead the way in making the complementarity principle enshrined in article 1 of the Rome Statute a reality. The International Crimes Division of the High Court of Uganda, about which we have reported at previous ASP sessions, continues to be a pioneer on how national courts can be empowered and equipped to complement the ICC. As a result of the tremendous work done, the Division since its establishment, some individuals who committed crimes in the context of the LRA war but were not indicted by the ICC are due to face trial. The success of the Division has been partly due to the assistance of the ICC which has supported capacity building of the Divisions. One of the outcomes of this cooperation has been the incorporation of international criminal principles

and procedures such as pre-trial hearings, witness protection, victim participation and support, into the Division's operating procedures. Suffice it to add that the Division is still work in progress and we shall be updating the Assembly at future sessions.

This is further testimony to the values that we hold and to our commitment to the cause of justice.

Mr. President

Allow me to turn to a question of paramount importance for the Court, especially at this point in time; that is, the relationship between the Court and Africa. As we all know, with 34 members coming from Africa, African States constitute the single biggest bloc in this Assembly. Forging a cooperative relationship and fostering goodwill between the Court and the Continent are, therefore, not a luxury but an absolute necessity. In this connection, Uganda regrets to note that the relationship between the Court and the African Union has not been totally reflective of the anticipated goodwill and mutual respect.

Mr. President

Whereas African countries have at every opportunity restated their commitment to the cause of international justice, they have consistently advised that the one-size-fits-all approach to complex dynamics within states and between them is unhelpful. They have also counseled that just as justice cannot be sacrificed at the altar of peace, peace too cannot be sacrificed at the altar of justice, or at the very best, a fine balance must be sought. Accordingly, the Continent has on a number of occasions called upon the Court and the United Nations Security Council to strike this balance between the two concepts whenever circumstances so warrant. We regret to note that on most occasions, Africa's voice has gone unheeded.

Mr. President

We wish to note that the withdrawal of the Republics of South Africa, Burundi and Gambia, albeit for different reasons is a poignant development but one which we believe could have been avoided. You will recall Mr. President that on 18th November 2015 during the 14th session, the Hon. Minister of International Relations and Cooperation of the Republic of South Africa brought to the attention of this Assembly the challenge(s) brought about by States being made to interpret their conflicting international law obligations within the realm of hard diplomatic realities.

The Hon. Minister accordingly, requested the session to consider an agenda item on the Rules and Procedures relating to the consultations contemplated under article 97 of the Rome Statute. She also requested that the Assembly discuss the application and implementation of Article 98, dealing with immunities provided for in customary international law and in treaties, and its relationship with Article 27.

In our view, this was a reasonable request by a State Party genuinely wishing to find a solution to a complex problem in concert with others. However, as you recall, the request to establish a Working Group on both issues was only partially granted, which could be interpreted as a missed opportunity.

Needles to say, the Assembly of States Parties is the only forum in which States can dialogue on critical issues and, therefore, the failure to do so might leave a concerned State Party with limited options. .. We will not jump to the conclusion that the refusal of the Assembly to listen to South Africa on this occasion prompted her decision to withdraw from the Statute but it is reasonable to conclude that it might have played a contributory role.

There have been remarks by some that those States Parties that have withdrawn or are contemplating withdrawal from the Court have hitherto been simply masquerading as genuinely committed to criminal accountability. This categorization is both untrue and unfortunate and smacks of the insensitivity that often undermines the very basis of the foundation of confidence that is essential for its own quest for universality and relevance.

We, therefore, call upon members of this Assembly to remember this in future engagements with individual States Parties on matters of a similar nature, for it is our firm conviction that continuous dialogue and engagement of all stakeholders is essential to the continued relevance and growth of the court.

Mr. President

Over the last ten months, Uganda has been adversely mentioned regarding the question of cooperation. This has been in connection with the visit by the President of Sudan, His Excellency Omar Al-Bashir' to Kampala on 18th February 2016. When the issue first arose, we explained to the Court that the invitation to President Al-Bashir to attend the inauguration of a new President of Uganda was no different from invitations extended to the Heads of State of all neighboring countries for the historic occasion or the invitation extended to President Omar Al-Bashir by the Secretary General of the United Nations to come to Uganda for the Review Conference.

Apart from being the Head of State of a neighboring country, President Al-Bashir remains an important actor in the stability of The Republic of The Sudan and the Republic of South Sudan.

In this regard, as a member of the Inter-Governmental Authority and Development (IGAD) and one of the guarantors to the Comprehensive Peace Agreement between The Sudan and the Sudan People's Liberation Movement of 2005, Uganda felt it had an obligation to continue to engage with all the actors, including the elected leader of The Sudan.

Accordingly, the invitation to President Al-Bashir was informed by the standpoint that good relations with all countries in the region was essential to the maintenance of peace and security

and that continuous engagement of all the leaders, President Al-Bashir included, is both important and unavoidable.

We further pointed out that as the Africa Union had counseled in its communiqué of 29th August 2010, the engagement of the leadership of The Sudan was vitally and strategically essential for the countries in the region, which by their location were not only best-placed to understand the local realities and dynamics, but also stood to bear the brunt of instability arising from the breakdown of that engagement.

Mr. President

As you may be aware, the above explanation by Uganda has since been declared unconvincing and, accordingly, my country has been adjudged in violation of its obligations under the Rome Statute. I wish to register here Mr. President that Uganda does not agree with this conclusion and invites distinguished States Parties to deeply reflect on the spirit behind Article 87(7) and when it can be drawn upon.

Mr. President

I wish to end by once again assuring you of our firm commitment to the fight against impunity and by calling upon States Parties to listen to Africa more responsively if the integrity and future of the International Criminal Court are to be assured.

I thank you.
